

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

FRED A. DIXON, JR., #1465237,

Plaintiff,

V.

RAINE UNKNOWN.

Defendant.

Case No. 6:22-cv-379-JDK-JDL

## ORDER ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Fred A. Dixon, Jr., a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

On September 28, 2028, Judge Love issued a Report and Recommendation in this case. Docket No. 3. In that Report, Judge Love found that Plaintiff accumulated at least three strikes under 28 U.S.C. § 1915(g) before filing this lawsuit. Accordingly, the Report recommended that the Court dismiss this case with prejudice for the purpose of proceeding *in forma pauperis*. Judge Love further recommended that the case should proceed if Plaintiff paid the full filing fee within fifteen days of the dismissal order. Plaintiff filed timely objections. Docket No. 6

Where a party timely objects to the Report and Recommendation, this Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28

U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Judge Love found that Plaintiff’s complaint did not allege facts establishing an imminent danger of serious physical injury as required for Plaintiff to proceed as a pauper in light of his multiple prior suits dismissed as frivolous or for failure to state a claim. Docket No. 3 (citing 28 U.S.C. § 1915(g)). Plaintiff’s objection repeats the phrases “threat of serious physical injury” and “imminent danger of serious physical injury,” but it does not lucidly allege any specific facts that would establish those circumstances. Docket No. 6 at 1. Plaintiff’s expressed intention to “pay fees when and if [he] get[s] money” does not satisfy the filing fee requirement or overcome the bar of 1915(g).

Having conducted a de novo review of the record in this case and the Magistrate Judge’s Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff’s objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 3) as the opinion of the District Court. The Court **DISMISSES** Plaintiff’s claims, with prejudice for purposes of proceeding *in forma pauperis* under 28 U.S.C. § 1915(g), but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status and payment of the full filing fee.

So **ORDERED** and **SIGNED** this **2nd** day of **November, 2022**.

A handwritten signature in black ink, reading "Jeremy D. Kernodle", is written over a horizontal line.

JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE